

MINUTES

Tennessee Board of Examiners for Land Surveyors

The Tennessee Board of Examiners for Land Surveyors met on Thursday, August 5, 2010 and Friday, August 6, 2010 at 9:00 a.m. in the 2nd Floor Conference Room of the Andrew Johnson Tower, 710 James Robertson Parkway, Nashville, TN.

Those present were: Jackie Dillehay, Chairman; Tim Lingerfelt, Vice-Chairman; David Cagle, Board Member; Robert Herndon, Attorney for the Board; and Donna Moulder, Administrative Director for the board. Sue Braly, the public board member, was not present due to illness. Ms. Braly was at the meeting via telephone.

The meeting was called to order at 9:10 a.m. by Chairman Dillehay.

The agenda was then reviewed. David Cagle then made a motion to adopt the agenda as presented. Tim Lingerfelt seconded the motion. The motion carried unopposed.

The minutes of the previous meeting were then reviewed. Mr. Lingerfelt made a motion to accept the minutes as written. Mr. Cagle seconded the motion. The motion carried unopposed.

Robert Herndon, Staff Attorney for the board, then presented the following complaints for review:

Complaint #200705991 – Mr. Lingerfelt made a motion to uphold the previous action by the board against the respondent, which included a Consent Order for a Civil Penalty of \$1000.00, a Letter of Warning and an order to attend at least two hours of ethics seminars. Sue Braly seconded the motion. The motion carried unopposed.

Complaint #200902117 – Ms. Braly made a motion to accept Jackie Dillehay's recommendation of a \$2500.00 Civil Penalty for negligence, misconduct and noncompliance of the Standards of Practice. David Cagle seconded the motion. There being no further discussion, the motion carried unopposed. Vice-Chairman Tim Lingerfelt recused himself from this complaint and did not vote.

Complaint #2010005841 – The board imposed a Consent Order for a Civil Penalty of \$2000.00 for unlicensed practice, which was executed and this complaint has now been closed.

Complaint #201000062 – Tim Lingerfelt originally reviewed this complaint. The initial ruling was to issue a Consent Order for a Civil Penalty of \$1000.00 and a requirement for the respondent to take and prove attendance at eight hours of ethics course(s). The complainant provided “new” information, which was reviewed by Mr. Lingerfelt, who found no grounds for increased discipline. David Cagle made a motion to uphold the initial ruling by the board. Sue Braly seconded the motion. The motion carried unopposed.

Complaint #200901618 – Sue Braly made a motion to accept the attorney’s recommendation to refuse to renew the respondent’s license upon expiration, and further amended the motion to include not just renewal, but also any attempt to reapply for licensure, based on a finding of misconduct pursuant to the authority of TCA 62-18-116(a)(1)(B). Tim Lingerfelt seconded the motion as amended. The motion carried unopposed.

Complaint #200902365 – Tim Lingerfelt made a motion to issue a Consent Order for a Civil Penalty of \$3000.00 for unlicensed practice. David Cagle seconded the motion. The motion carried unopposed.

Complaint #200902502 – David Cagle made a motion to accept the attorney’s recommendation to dismiss the complaint due to the lack of grounds for discipline. Sue Braly seconded the motion. The motion carried unopposed.

Complaint #201001153 – Tim Lingerfelt made a motion to accept the attorney’s recommendation of an Informal Hearing to determine the nature of the respondent’s activity. David Cagle seconded the motion. The motion carried unopposed.

Complaint #2010001715 – Based on discussion and further advice, Mr. Lingerfelt made a motion to re-attempt service at the respondent’s employer address to ensure service of process. David Cagle seconded the motion. The motion carried unopposed.

Complaint #2010017731 – David Cagle made a motion to accept the attorney’s recommendation to issue the respondent a Consent Order for a Civil Penalty of \$2000.00: \$1000.00 for unlicensed conduct and \$1000.00 for violating an order of the board pursuant to Tenn. Comp. R. & Reg. 0820-1-.06(k) [Civil Penalties]. Tim Lingerfelt seconded the motion. The motion carried unopposed.

Complaint #201001774 – Mr. Cagle made a motion to accept the attorney’s recommendation and close this complaint with a Letter of Warning to the respondent. Sue Braly seconded the motion. The motion carried unopposed.

Complaint #201002117 – After further discussion of this complaint, David Cagle made a motion to issue to the respondent a Letter of Caution to include the

importance of clearly establishing the scope of service. Tim Lingerfelt seconded the motion. The motion carried unopposed.

Following the complaint review, the board then held its annual election of officer as required by TCA 62-18-106(4).

Tim Lingerfelt made a motion to elect Jackie Dillehay as Chairman. David Cagle seconded the motion. The motion carried unopposed. Jackie Dillehay is Chairman.

David Cagle made a motion to elect Tim Lingerfelt as Vice-Chairman. Sue Braly seconded the motion. The motion carried unopposed. Tim Lingerfelt is Vice-Chairman.

Sam Billingsley, TLS #2652 met with the members of the board requesting approval of a continuing education course(s) given by SPAR. David Cagle made a motion to approve Mr. Billingsley's request. Tim Lingerfelt seconded the motion. The motion carried unanimously.

The board then discussed retaining an expert witness for the purpose of reviewing complaints when there is a question of misconduct by a respondent.

The following criteria must be met by the expert witness:

- Tennessee licensed surveyor
- Has no less than 20 years of continuous, full time practice experience in responsible charge of a surveying firm.
- 20 years of continuous licensure with this board. Licensee can be retired from practicing, but his license must be in good standing with this board.
- License must be current and/or in good standing with this board.
- No revocations, suspensions, disciplines, etc. in ANY jurisdiction.

Mr. Herndon then gave a report on the progress of the rules in the AG's office. The rules have come back from the AG's office with several comments for minor changes, (such as capitalization, punctuation) that need to be made.

Mr. Dillehay gave a report on the Chairmen's Meeting that was held by Assistant Commissioner Steve Majchrzak on July 21, 2010.

The next meetings were scheduled for October 28-29, 2010, February 3-4, 2011, April 7-8, 2011 and August 4-5, 2011.

The board members authorized Donna Moulder to release the exam scores to the examinees as soon as they are received in the board office from NCEES and Peter Messier.

The rules on professional conduct are the next set of rules that the board wants to change. Tim Lingerfelt stated that he would like to see something added in the new rules addressing electronic signatures. Tim Lingerfelt made the motion that Chairman Dillehay notify TAPS that the board will be reviewing the Professional Rules of Conduct at the next scheduled board meeting and if they have any input, it will be more than welcomed. David Cagle seconded the motion. The motion carried unanimously.

The board then began the application review for the October 28-29, 2010 examination(s).

There being no further business, the meeting was adjourned at 5:00 pm.

FRIDAY, AUGUST 6, 2010 –

Those present were: Jackie Dillehay, Chairman; Tim Lingerfelt, Vice-Chairman; David Cagle, Board Member; Robert Herndon, Attorney for the Board; and Donna Moulder, Administrative Director for the board. Sue Braly, the public board member, was not present due to illness. Ms. Braly was at the meeting via telephone.

The meeting was called to order at 9:00 a.m. by Chairman Dillehay.

After reviewing the following complaint, David Cagle gave a report to the full board for their action:

Complaint #201001963 and #201001965 – It is Mr. Cagle's opinion that the surveyors name in the complaint used the correct procedures, according to our Standards of Practice, when performing the survey(s) in question. He also stated that he found no wrong doing by the respondent surveyors. Mr. Cagle made the motion that the complaints be dismissed due to lack of disciplinary grounds. Tim Lingerfelt seconded the motion. The motion carried unopposed.

The application review for the October 28-29, 2010 process continued.

The following applications were DENIED:

- ❖ *Christy Garrett* – The board feels a more detailed explanation of her field work is needed.
- ❖ *David Neal Houghton* – age of application
- ❖ *Benjamin Lee Drerup* – Application was received past the deadline date and was incomplete (lacked verification of licensure from Georgia)

The following new applications were APPROVED to take the October 2010 exam:

Robert Jason Coyle
Woody Shannon McCowan
David J. O'Brien
Will Ryan Lester
David Lee Cox
James Charles Gray, Jr.
Michael Todd McBee
Rodney Keith Cunningham
Eric William Price
Clifton Olen Odgen (PLSIT)
Mack Rains Ashburn (PLSIT)
Sandy Mehlhorn

Thomas Laslie Seratt II
John Scott Stanley
Michael Vernon Austin
Clint Thomas Elliott
Timothy James Kelly
Michael Trevor Gorman
Todd E. Bishop
Beau Marshall Agee
Jesse Ray Pierpoint
Michael Dale Arena
James Whitney Roper (PLSIT)

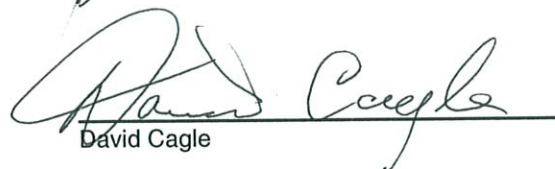
Joshua Mark Sherlin (PLSIT)

There being no further business, the meeting adjourned at 12:00 p.m.

Respectfully submitted,



Donna Moulder
Administrative Director


Jackie Dillehay, Chairman
David Cagle
Tim Lingerfelt, Vice-Chairman
Sue Braly